

No. 46496-9-II

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

In re Personal Restraint Petition of

NATHEN WRIGHT,

Petitioner

STATE'S RESPONSE TO PERSONAL RESTRAINT PETITION

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I. STATE'S RESTATEMENT OF ISSUES PERTAINING TO
WRIGHT'S PERSONAL RESTRAINT PETITION:

a) **GENERAL RESPONSES TO WRIGHT'S PERSONAL
RESTRAINT PETITION**

1. This Court should dismiss Wright's claims that were raised and decided on direct review.
2. This Court should deny or dismiss Wright's petition because he has not demonstrated actual and substantial prejudice or a fundamental defect that has resulted in a complete miscarriage of justice.
3. In his first and second assignments of error, Wright alleges that his trial counsel was ineffective. To address this argument and avoid repeating it in regard to both of the two assignments of error, the standard of review regarding a review of a claim of ineffective assistance of counsel is presented here for general application to Wright's claims on collateral review.
4. Wright's third, fourth and fifth claims on collateral review relate to his argument regarding sufficiency of the evidence; so, the standard of review is presented here for general application to Wright's claims of insufficiency of the evidence.

b) **STATE'S SPECIFIC RESPONSES TO WRIGHT'S INDIVIDUAL
ASSERTIONS OF ERROR**

- A. Wright was charged in this case with vehicular homicide, possession of heroin, and use of drug paraphernalia. On the facts of this case, the three

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charges all arose out the same incident. Wright's trial counsel was not ineffective for not moving to sever the charges.

- B. A sample of Wright's blood was collected in order to perform an analysis for the presence of drugs. A test of the blood to determine the per se level of alcohol requires that the blood be preserved with an enzyme poison. Because the test in this case was a drug test rather than an alcohol test, Wright's trial counsel was not ineffective by not alleging a lack of foundation.
- C. Wright contends that the evidence was insufficient to support the jury's verdict of guilty for the crime of possession of heroin. Wright reasserts this issue after raising it unsuccessfully on direct appeal. The State contends that on collateral review, as on direct appeal, there is substantial evidence in the record to support the jury's verdict.
- D. Wright contends that the evidence was insufficient to support the jury's verdict finding him guilty of use of drug paraphernalia. Wright reasserts this issue after raising it unsuccessfully on direct appeal. The State contends that there is substantial evidence in the record to support the jury's verdict.
- E. Wright contends that the evidence at trial was insufficient to support the jury's verdict finding him guilty of vehicular homicide. The State contends that there is substantial evidence to support the jury's verdict.

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II. STATEMENT OF AUTHORITY FOR RESTRAINT

Petitioner, Nathan Wright, is restrained pursuant to a Judgment and Sentence that was entered in Mason County Superior Court Cause No. 11-1-00195-4 on March 13, 2012. Attachment A.

III. STATEMENT OF FACTS

The State respectfully refers the Court to its unpublished opinion of the direct appeal of this case, in case No. 43226-9-II, and incorporates the facts by reference. This personal restraint petition and the direct appeal both arose from Mason County Superior Court case no. 11-1-00195-4. Because Wright has alleged insufficiency of the evidence, the entire record of the trial is relevant. The State respectfully requests that this Court incorporate the record, to include the trial transcripts, from the direct appeal.

The record shows that on October 27, 2010, at about 6:30 a.m. Nathan Wright drove an Isuzu pickup truck down Highway 101 in Mason County. RP 59, 78, 160. He and his passenger, Kahil Marshall, were on their way to St. Peter's Hospital in Olympia because Ms. Marshall had non-emergency surgery scheduled for 7:30 that morning. RP 315-16.

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Wright drove the vehicle erratically. RP 51-52. He was swerving from side to side, back and forth, as he passed other cars at a high rate of speed. *Id.* Wright swerved into another vehicle's lane and forced the other driver to take evasive action to avoid a collision. *Id.*

Wright sped on and caught up to Stephen Cole, who was on his way to work in Olympia. RP 48, 53. Wright swerved into Cole's lane and caused Cole to have to leave the lane of travel and steer his van onto the shoulder of the road and drive on the rumble strips in order to avoid a collision with Wright. RP 53. Wright then got back into his own lane, but overcorrect in the process, and ended up going off the road onto to the left side median shoulder before regaining control and driving on. RP 53.

Cole was driving about 60-62 miles per hour. RP 53. Wright passed Cole "fairly swiftly" and sped away up a hill while swerving from left to right. RP 53-54. Cole watched as Wright quickly caught up to a school bus that was driving up ahead in the left lane. RP 57. The bus was all light up with lights and reflectors. RP 58. The bus was turning left and had its left turn signal activated. RP 57. Wright drove his pickup truck into the rear of the bus without even attempting to apply brakes to avoid

the collision. RP 57-58, 310, 313. Wright said that he didn't see the bus at all. RP 312.

Upon impact, the rear of the pickup lifted off the ground and debris flew from the scene of the crash. RP 58. The impact of the pickup was perfectly straight into the back of the school bus. RP 152. The weight shift upon impact was directly forward. RP 155-56, 159.

Wright was trapped on the driver's side of the pickup. Ms. Marshall was killed by the impact with the bus. RP 267, 284. Her body was trapped on the passenger side of the pickup. When Wright was removed from the pickup, officers found two syringes on the driver's side floorboard. RP 170, 203. Ms. Marshall's body partially covered the center console, and when her body was removed, officers found a then visible metal spoon in the center console. RP 171.

Even with the severe impact from the collision, the spoon was found to be loaded with heroin and a cotton ball. RP 171, 299. Heroin is typically prepared for injection by placing it into a metal spoon and adding water, after which the mixture is then heated to melt the heroin. RP 300. A small piece of cotton is used as a filter when sucking the melted heroin into the syringe. RP 300-01. If the mixture is allowed to cool off and dry,

it will turn to a solid again. RP 301. The mixture was still wet. RP 121-22, 171.

Wright was still alive and was transported to the hospital for his injuries. RP 209. Troopers obtained a blood sample from Wright. RP 209. The blood samples were collected into certified, grey-top tubes and there was testimony that the tubes contained a white powder and an anticoagulant, but there was no mention of an enzyme poison. RP 210, 219.

The blood sample revealed the presence of methamphetamine at .05 milliliters per liter. RP 249. The State's expert witness testified that at this quantity Wright might or might not have been impaired. RP 249. The level of methamphetamine could be consistent with a therapeutic dose if the drug were prescribed. RP 258. There was no evidence presented to support a conclusion that a therapeutic dose would necessarily be safe for driving. During cross examination of Mr. Knoy, the State's toxicology expert, the defense suggested that a former toxicologist, Dr. Logan, had written articles stating that methamphetamine may improve driving performance. RP 257. Mr. Knoy answered that he was unaware of that possibility in those terms. RP 257.

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There was no testimony or other evidence provided to suggest that Wright was prescribed methamphetamine, and there was no evidence to support an argument that the prescribed means of ingesting methamphetamine would be to smoke it. Wright admitted to smoking methamphetamine the weekend before the collision. RP 314. (On another occasion, Wright would say that he injected the methamphetamine. RP 237). Given the half-life of methamphetamine, however, the presence of methamphetamine in Wright's blood indicated that he had used the drug within hours, or at most within a day, of the blood draw. RP 252-53.

Wright was given morphine at the hospital. RP 233. Morphine slows down the body. RP 233. Methamphetamine speeds it up. RP 233. A drug recognition expert contacted Wright at the hospital to attempt a DRE evaluation, but was unable to complete the evaluation. RP 225-32.

The DRE did note, however, that Wright's pulse was at the high end of the normal range of 60 to 90; Wright's pulse readings were 87, 91, and 88. These readings were unexpectedly high because morphine typically slows the person down; so, you would expect these readings to be low when a person is on morphine. RP 233-34. When a person uses methamphetamine and morphine at the same time, the drugs can balance

out the physical signs. RP 233. Methamphetamine also causes mood swings, aggressive behavior, risk taking, impaired judgment and poor decision making, as well as affecting reaction time, and divided attention abilities. RP 236-37, 253-54.

Wright told a police detective that he knew there were drugs in the car before the collision. RP 314. He said that he just didn't see the bus at all. RP 312. He said that he'd been arguing with Ms. Marshall and that he was going about 65 miles an hour and ran into the back of the bus without even seeing it or trying to stop before hitting it. RP 310-14.

IV. STANDARD OF REVIEW FOR PERSONAL RESTRAINT PETITION

To obtain relief through a personal restraint petition, Wright must show that he was actually and substantially prejudiced either by a violation of his constitutional rights or by a fundamental error of law. *In re Cook*, 114 Wn.2d 802, 814, 792 P.2d 506 (1990). Or, if the claimed error is non-constitutional, Wright must show "a fundamental defect which inherently results in a complete miscarriage of justice." *Id.* at 812.

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Because Wright brings assertions of error before the court by way of a personal restraint petition, he is not entitled on review to an assumption that he suffered prejudice from any error he alleges, if error occurred; instead, Wright bears the burden of showing actual prejudice. *In re Davis*, 152 Wn.2d 647, 698, 101 P.3d 1 (2004).

V. ARGUMENT

a) **GENERAL RESPONSES TO WRIGHT'S PERSONAL RESTRAINT PETITION**

1. This Court should dismiss Wright's claims that were raised and decided on direct review.

In this personal restraint petition, Wright has raised claims that were raised on direct review, in Court of Appeals case No. 43226-9-II, and were decided with the issuance of this Court's opinion. Specifically, on direct review Wright asserted that there was insufficient evidence to support the jury's verdicts of guilty in regard to his offenses of possession of heroin and for the use of drug paraphernalia. Wright now reasserts these claims in his personal restraint petition.

Because the interests of justice do not require re-litigation of these issues, Wright should be prohibited from raising those issues presented in

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his personal restraint petition that were previously raised and rejected on direct appeal. *In re Davis*, 152 Wn.2d 647, 670-671, 101 P.3d 1 (2004). As a general rule, in addition to a requirement of showing actual prejudice to the petitioner, a personal restraint petition that seeks to renew issues that were raised on direct appeal must raise new points of fact and law that could not have been raised in the direct appeal. *Davis*, 152 Wn.2d at 670-71; *In re Gentry*, 137 Wn.2d 378, 388-389, 972 P.2d 1250 (1999).

2. This Court should deny or dismiss Wright's petition because he has not demonstrated actual and substantial prejudice or a fundamental defect that has resulted in a complete miscarriage of justice.

The State disputes Wright's assertions of error, but even if Wright were able to show error (which he is not), he would nevertheless carry the burden of showing that the error is such that he would be entitled to relief. *In re Elmore*, 162 Wn.2d 236, 172 P.3d 335 (2007); *In re Woods*, 154 Wn.2d 400, 114 P.3d 607 (2005).

To the extent that Wright alleges constitutional error, Wright has the burden of showing actual prejudice. *In re Elmore*, 162 Wn.2d 236, 251, 172 P.3d 335 (2007). "Actual prejudice must be determined in light

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of the totality of circumstances.” *In re Music*, 104 Wn.2d 189, 191, 704 P.2d 144 (1985).

Where Wright alleges non-constitutional error, he has the burden of showing that the alleged errors represent a fundamental defect that has resulted in a complete miscarriage of justice. *In re Woods*, 154 Wn.2d 400, 409, 114 P.3d 607 (2005). But Wright has not shown that there has been a miscarriage of justice or that he has suffered any unfair prejudice. Wright's personal restraint petition, therefore, should be dismissed. *In re Woods*, 154 Wn.2d 400, 409, 114 P.3d 607 (2005).

3. In his first and second assignments of error, Wright alleges that his trial counsel was ineffective. To address this argument and avoid repeating it in regard to both of the two assignments of error, the standard of review regarding a review of a claim of ineffective assistance of counsel is presented here for general application to Wright's claims on collateral review.

Ineffective assistance of counsel is a two-pronged test that requires the reviewing court to consider whether trial counsel's performance was deficient and, if so, whether counsel's errors were so serious as to deprive the defendant of a fair trial for which the result is unreliable. *Strickland v.*

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Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L.Ed. 2d 674 (1984);

State v. Grier, 171 Wn.2d 17, 246 P.3d 1260, 1268 -1269 (2011).

The “court approaches an ineffective assistance of counsel argument with a strong presumption that counsel's representation was effective.” *In re Davis*, 152 Wn.2d 647, 673, 101 P.3d 1 (2004), citing *State v. McFarland*, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995). In the instant case, to prevail on his claim Wright must “rebut this presumption by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy.” *Davis* at 673, quoting *Kimmelman v. Morrison*, 477 U.S. 365, 384, 106 S.Ct. 2574, 91 L.Ed.2d 305 (1986) (citing *Strickland*, 466 U.S. at 688-89, 104 S.Ct. 2052). “The reasonableness of counsel's performance is to be evaluated from counsel's perspective at the time of the alleged error and in light of all the circumstances.” *Davis* at 673.

Generally, in order to establish ineffective assistance of counsel, a defendant must demonstrate both: (1) that his or her attorney's representation fell below an objective standard of reasonableness; and, (2) that there was resulting prejudice -- i.e., a reasonable probability that, but for counsel's deficient performance, the result of the proceeding would

have been different. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995); *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). There is a strong presumption that a defendant received effective representation, and the defendant carries the burden of demonstrating that there was no legitimate strategic or tactical rationale for the challenged conduct. *McFarland*, 127 Wn.2d at 336.

Wright has not shown that his attorney was ineffective, and he has not shown prejudice.

4. Wright's third, fourth and fifth claims on collateral review relate to his argument regarding sufficiency of the evidence; so, the standard of review is presented here for general application to Wright's claims of insufficiency of the evidence.

"A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992), citing *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff'd*, 95 Wn.2d 385, 622 P.2d 1240 (1980). On review of a jury conviction, the evidence is viewed in the light most favorable to the State and is viewed with deference to the trial court's findings of fact. *State v. Salinas*, 119 Wn.2d 192, 829 P.2d

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1068 (1992). Circumstantial and direct evidence are equally reliable in determining sufficiency of the evidence. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

The reviewing court defers to the trier of fact on issues of conflicting testimony, credibility of witnesses, and persuasiveness of the evidence. *State v. Thomas*, 150 Wn.2d 821, 874–75, 83 P.3d 970 (2004), *abrogated on other grounds by Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004). The reviewing court need not be convinced of the defendant's guilt beyond a reasonable doubt; the reviewing court need only find that substantial evidence supports the State's case. *State v. Fiser*, 99 Wn. App. 714, 718, 995 P.2d 107, *review denied*, 141 Wn.2d 1023, 10 P.3d 1074 (2000).

The fact that a trial or appellate court may conclude that the evidence is not convincing, or may find that the evidence is hard to reconcile in some of its aspects, or may think some evidence appears to refute or negate guilt, or to cast doubt thereon, does not justify the court setting aside the jury's verdict. *State v. Randecker*, 79 Wn.2d 512, 517–18, 487 P.2d 1295 (1971). It is only necessary for the court to be satisfied

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that there is substantial evidence to support the State's case or the particular element in question. *Id.* at 518.

**b) STATE'S SPECIFIC RESPONSES TO WRIGHT'S INDIVIDUAL
ASSERTIONS OF ERROR**

- A. Wright was charged in this case with vehicular homicide, possession of heroin, and use of drug paraphernalia. On the facts of this case, the three charges all arose out the same incident. Wright's trial counsel was not ineffective for not moving to sever the charges.

To prevail on his assertion that his trial counsel was ineffective for not moving to sever the charges in this case, Wright must show that counsel's failure to make this motion was deficient performance and that he was prejudiced by counsel's failure to bring the motion. *State v. Sutherby*, 165 Wn.2d 870, 884-885, 204 P.3d 916 (2009). To show prejudice, Wright must show both that a severance motion likely would have been granted and that the outcome of separate trials likely would have been different. *Id.*

In the case of *State v. Sutherby* the Supreme Court found that trial counsel was ineffective for not moving for severance. *Id.* But the facts of *Sutherby* are far different from the facts of the instant case. First, *Sutherby*

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was a child sex offense case, and the Court emphasized that “[t]he joinder of charges can be particularly prejudicial when the alleged crimes are sexual in nature.” *Id.* at 884.

Sutherby involved an allegation that the defendant had digitally raped his six year old granddaughter. While investigating the crime, investigators obtained Sutherby’s permission to search his home computers. *Id.* at 875-76. Investigators found child pornography on the computers. *Id.* Sutherby was charged with 10 counts of possession of pornography and one count of first degree child molestation. *Id.* Although there was no evidence that pornography was involved in the act of molestation, “[t]he State argued that the counts were ‘intertwined’ because proof that Sutherby viewed child pornography was probative of his sexual motivation in touching” the victim. *Id.* at 876. “[T]he State consistently argued that the presence of child pornography on Sutherby’s computers proved he sexually abused” the victim. *Id.* at 885.

The facts of *Sutherby* are distinct from the facts of the instant case. The instant case is not a sex case, and here, evidence of the three crimes are closely entangled. The three offenses occurred at the same time and place; the heroin and paraphernalia were found under the victim’s corpse

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when she was killed by the acts that constitute the vehicular homicide charge; and from those same acts, two syringes were located at Wright's feet. RP 51-59, 78, 121-22, 170-71, 203.

When considering whether to sever charges, the trial court engages in the following three considerations:

“(1) the strength of the State's evidence on each count; (2) the clarity of defenses as to each count; (3) court instructions to the jury to consider each count separately; and (4) the admissibility of evidence of the other charges even if not joined for trial.”

State v. Sutherby, 165 Wn.2d at 884-85, quoting *State v. Russell*, 125 Wn.2d 24, 63, 882 P.2d 747 (1994). In light of these considerations, Wright has not shown that his motion for severance would have been granted.

First, the evidence was strong in regard to each count. There was substantial evidence that Wright was driving erratically and recklessly before he crashed into the brightly lit school bus without trying to stop. There is no question that there was heroin in the pickup truck that Wright was driving. There is no question that the metal spoon was used to melt heroin and prepare it for injection.

Secondly, Wright has not shown how trying these counts together has interfered with the clarity of defenses as to each count. The defenses

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in regard to the paraphernalia and heroin possession charges is not in conflict with the defense for vehicular homicide. Wright admitted that he knew drugs were in the pickup truck that he was driving. RP 314. Driving indicates his dominion and control over the truck and its contents. Wright was driving when smashed into the bus and killed his passenger. RP 310-16.

The trial court instructed the jury that each count constituted a separate offense and that it was to consider each count separately. RP 439 (Jury Instruction No. 6).

And finally, the trial court would consider the admissibility of evidence of the other crimes if the counts were tried separately. In this case the evidence was related in all counts, because the severity of the impact would have a potential effect on the location of the syringes, spoon, and heroin. And because the spoon and heroin were found under the corpse of the victim. RP 51-59, 78, 121-22, 170-71, 203.

Additionally, the mere “fact that separate counts would not be cross admissible in separate proceedings does not necessarily represent a sufficient ground to sever as a matter of law.” *State v. Kalakosky*, 121 Wn.2d 525, 538, 852 P.2d 1064 (1994). Instead, severance is required

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only where the defendant can demonstrate that specific prejudice results from the joinder. *State v. Bythrow*, 114 Wn.2d 713, 720, 790 P.2d 154 (1990). Wright has not made this showing.

Washington law disfavors separate trials. *State v. Medina*, 112 Wn. App. 40, 52, 48 P.3d 1005 (2002). Here, Wright's trial attorney was not ineffective, because a motion to sever these charges would not have been granted even if the motion for severance were made.

- B. A sample of Wright's blood was collected in order to perform an analysis for the presence of drugs. A test of the blood to determine the per se level of alcohol requires that the blood be preserved with an enzyme poison. Because the test in this case was a drug test rather than an alcohol test, Wright's trial counsel was not ineffective by not alleging a lack of foundation.

WAC 448-14-020 pertains to "[o]perational discipline of blood samples for alcohol" and requires that "[b]lood samples for alcohol analysis must be preserved with an anticoagulant and an enzyme poison...." WAC 448-14-020(3)(b).

The instant case involved only a blood analysis for drugs. There is no requirement for an enzyme poison to preserve blood for drug analysis.

State's Response to Personal
Restraint Petition
Case No. 46496-9-II

Mason County Prosecutor
PO Box 639
Shelton, WA 98584
360-427-9670 ext. 417

In any event, Wright's claim of ineffective assistance on this point should also fail because he cannot show prejudice. Even if enzyme poison was applicable to drug analysis, an objection to foundation based on an absence of testimony about an enzyme poison would likely only have led to testimony that the blood vial contained an enzyme poison, rather than suppression of the blood test results.

- C. Wright contends that the evidence was insufficient to support the jury's verdict of guilty for the crime of possession of heroin. Wright reasserts this issue after raising it unsuccessfully on direct appeal. The State contends that on collateral review, as on direct appeal, there is substantial evidence in the record to support the jury's verdict.

Wright contends that although he drove the Isuzu pickup that contained heroin and paraphernalia, he did not own the pickup. Br. of Appellant at 27. Wright contends that his girlfriend owned the "car" that he was driving. Br. of Appellant at 29. But Wright does not provide a citation to the record or other evidence to support this factual assertion.

In any event, Wright was driving the pickup while it contained heroin and used paraphernalia, or paraphernalia that was then currently

being used. RP 310-16. Write admitted that he was driving and admitted that he knew there were drugs in the vehicle. *Id.*

Constructive possession is proved when a person has dominion and control over the premises where contraband is found. *State v. George*, 146 Wn. App. 906, 921, 193 P.3d 693 (2008). Premises includes a vehicle. *Id.* (citing *State v. Potts*, 1 Wn. App. 614, 617, 464 P.2d 742 (1969)). The driver of a vehicle has dominion and control over the vehicle and its contents. *State v. Turner*, 103 Wn. App. 515, 524, 13 P.3d 234 (2000). Exclusive control is not required to prove possession; more than one person may be in possession of the same item. *Id.* at 522.

Applied to the facts of the instant case, there was substantial evidence to support the jury's verdict finding Wright guilty of possession of heroin.

- D. Wright contends that the evidence was insufficient to support the jury's verdict finding him guilty of use of drug paraphernalia. Wright reasserts this issue after raising it unsuccessfully on direct appeal. The State contends that there is substantial evidence in the record to support the jury's verdict.

State's Response to Personal
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Mason County Prosecutor
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The analysis here is nearly identical to the analysis above in regard to sufficiency in general and in regard to the sufficiency of the evidence to prove the crime of possession of heroin. The only additional fact to consider is that there is substantial evidence in the record to support not only that Wright possessed the metal spoon, but also that the spoon was used to prepare heroin for injection. RP 299-301.

- E. Wright contends that the evidence at trial was insufficient to support the jury's verdict finding him guilty of vehicular homicide. The State contends that there is substantial evidence to support the jury's verdict.

The State here respectfully refers the Court to the State's general discussion, above, in regard to the standard of review to be applied to claims against the sufficiency of the evidence and to the State's discussion of the facts in the facts section above.

As an additional fact, the jury was instructed on all three prongs of vehicular homicide. RP 439 (Jury Instruction No. 8); RP 440 (Jury Instruction No. 13). The jury returned a special interrogatory finding all three of the alternative prongs. RP 512.

State's Response to Personal
Restraint Petition
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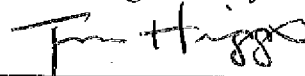
Rather than repeat arguments previously made in regard to similar claims by Wright, the State respectfully refers the court to the facts outlined at pages 3-8, above, and contends that when these facts are applied to the standard of review for claims against the sufficiency of the evidence as briefed at pages 13-14, above, there is substantial evidence in the record to support the jury's verdicts in this case.

VI. CONCLUSION

For each of the reasons argued above, the State asks that the Court dismiss or deny Wright's personal restraint petition.

DATED: December 15, 2014.

MICHAEL DORCY
Mason County
Prosecuting Attorney



Tim Higgs
Deputy Prosecuting Attorney
WSBA #25919

State's Response to Personal
Restraint Petition
Case No. 46496-9-II

Mason County Prosecutor
PO Box 639
Shelton, WA 98584
360-427-9670 ext. 417

Attachment A

Judgment and Sentence

3x certifying
SC
SOC

RECEIVED & FILED

MAR 13 2012

ag 14
PAT SWARTOS, Clerk of the
Superior Court of Mason Co. Wash

**Superior Court of Washington
County of Mason**

State of Washington, Plaintiff,

vs.

NATHEN R. WRIGHT,

Defendant.

DOB: 4/24/78

PCN:

SID: WA23274443

No. 11-1-00195-4

Felony Judgment and Sentence --

Prison

(FJS)

☒ Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2,
5.3, 5.5 and 5.7

☒ Defendant Used Motor Vehicle

☐ Juvenile Decline ☐ Mandatory ☐ Discretionary

I. Hearing

12-9-193-5

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

2.1 Current Offenses: The defendant is guilty of the following offenses, based upon

☐ guilty plea (date) ___ ☒ jury-verdict (date) 3/1/12 ☐ bench trial (date) _____:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
I	Vehicular Homicide (DUI Prong)	46.61.520(1)	FA	10/27/10
II	Unlawful Possession of a Controlled Substance	69.50.4013(1) Heroin	FC	10/27/10
III	Unlawful Use of Drug Paraphernalia	69.50.412(1)	M	10/27/10

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.602, 9.94A.533.

☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____. RCW 9.94A.602, 9.94A.533.

☐ For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.

☐ Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school

89

grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count _____, RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- ☐ Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang member or associate** when the defendant committed the crime. RCW 9.94A.702, 9.94A. ____.
- ☒ The defendant committed ☒ **vehicular homicide** ☐ **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- ☐ In Count _____ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.
- ☒ Count I is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ In Count _____, assault in the 1st degree (RCW 9A.36.011) or assault of a child in the 1st degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).
- ☐ Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- ☐ **Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

Crime		Cause Number	Court (county & state)	DV* Yes
1.	Unlawful Possession of a Controlled Substance	11-1-00309-4	Mason County, WA	

* DV: Domestic Violence was pled and proved.

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

Crime		Date of Crime	Date of Sentence	Sentencing Court (county & state)	A or J Adult, Juv.	Type of Crime
1	DUI	3/17/06	12/22/06	Thurston Co. Dist.	A	GM
2	Hit and Run Attended	3/17/06	9/14/07	Thurston Co. Dist.	A	GM

3	Forgery	10/22/09	2/8/10	Pierce Co.	A	FC
4	VUSCA	5/9/07	7/16/07	Thurston Co.	A	FC

*DV: Domestic Violence was pled and proved.

☐ Additional criminal history is attached in Appendix 2.2.

☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

☐ The prior convictions listed as number(s) _____, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

☐ The prior convictions listed as number(s) _____, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
I	6	IX	77 - 102 months	N/A	77 - 102 months	Life / \$50,000
II	4	I	6+ - 18 months	N/A	6+ - 18 months	5 years / \$10,000
III	N/A	Misd.	0 - 90 days	N/A	0 - 90 days	90 days / \$1,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12).

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____.

2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) _____.

☐ above the standard range for Count(s) _____.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

☐ within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial

resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings:

☒ The defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The court **dismisses** in the charging document.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

(a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

90 months on Count I 18 months on Count II

90 days on Count III, with 0 days suspended on the condition that the defendant comply with the terms of his community custody.

☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

☐ The confinement time on Count _____ includes _____ months as enhancement for ☐ firearm ☐ deadly weapon ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 90 months TAS

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

(b) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

(c) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or
- (2) the period imposed by the court, as follows:

Count(s) _____ 36 months for Serious Violent Offenses

Count(s) I 18 months for Violent Offenses
Count(s) II 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

☐ consume no alcohol.

☐ have no contact with: _____.

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____.

☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.

☐ participate in the following crime-related treatment or counseling services: _____.

☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management, and fully comply with all recommended treatment. _____

☐ comply with the following crime-related prohibitions: _____.

☒ Other Conditions: See "Conditions of Community Custody" entered this date

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3 Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE

PCV \$ 500 Victim assessment RCW 7.68.035

PDV \$ Domestic Violence assessment RCW 10.99.080

CRC \$ ~~1738.78~~ Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

1569.89

Criminal filing fee \$200 FRC

Witness costs \$337.78 WFR

Sheriff service fees \$891 SFR/SFS/SFW/WRF

Jury demand fee \$250 JFR

Extradition costs \$ EXT

Other \$60 Sheriff's return on service

PUB ^{TPS} \$ 8020 Fees for court appointed attorney Any balance later billed the county is reserved. RCW 9.94A.760

WFR \$ 4392.74 Court appointed defense expert and other defense costs RCW 9.94A.760

(Court reserves on additional, outstanding costs)

FCM/MTH \$ 2000 Fine RCW 9A.20.021; ☒ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/FCD \$ Drug enforcement fund of _____ RCW 9.94A.760
NTF/SAD/SDI

\$ _____ DUI fines, fees and assessments
 CLF \$ 100 Crime lab fee [] suspended due to indigency RCW 43.43.690
 \$ 100 DNA collection fee RCW 43.43.7541
 FPV \$ _____ Specialized forest products RCW 76.48.140
 \$ _____ Other fines or costs for: _____
 RTN/RJN \$ 1000 Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI only, \$1000 maximum) RCW 38.52.430
 RTN/RJN \$ Reserved Restitution to: _____
 \$ _____ Restitution to: _____
 \$ _____ Restitution to: _____
 (Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)
 \$ 17,682.61 **Total** RCW 9.94A.760

[X] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[X] shall be set by the prosecutor.

[] is scheduled for _____ (date).

[] The defendant waives any right to be present at any restitution hearing (sign initials): _____.

[] **Restitution** Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant Cause Number (Victim's name) (Amount-\$)

RJN

☒ The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$25.00 per month commencing 60 days after release from confinement. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

[] The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is

established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact:

☐ The defendant shall not have contact with _____ (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until _____ (which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within _____ (distance) of:
☐ _____ (name of protected person(s))'s ☐ home/
residence ☐ work place ☐ school ☐ (other location(s)) _____, or
☐ other location: _____,
until _____ (which does not exceed the maximum statutory sentence).

☐ A separate Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed concurrent with this Judgment and Sentence.

4.6 Other: _____

4.7 **Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

V. Notices and Signatures

5.1 **Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 Community Custody Violation.

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

5.5 Firearms. You may not own, use or possess any firearm, and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6 Reserved

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: _____

Done in Open Court and in the presence of the defendant this date: 3-13-2012

TONI A. SHELDON

Toni A. Sheldon
Judge/Print Name:

17506
Deputy Prosecuting Attorney
WSBA No. 23644

Print Name: Jason S. Richards

Steve Scott

Charles Lane
Attorney for Defendant
WSBA No. 25022

Print Name: Charles Lane

Nathen R. Wright
Defendant

Print Name: Nathen R. Wright

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: Nathen R. Wright

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter _____

Print Name _____

I, _____, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

Witness my hand and seal of the said Superior Court affixed this date: _____.

Clerk of the Court of said county and state, by: _____, Deputy Clerk

VI. Identification of the Defendant

SID No. _____ Date of Birth _____
(If no SID complete a separate Applicant card
(form FD-258) for State Patrol)

FBI No. _____ Local ID No. _____

PCN No. _____ Other _____

Alias name, DOB: _____

Race:

☐ Asian/Pacific Islander ☐ Black/African-American ☐ Caucasian
☐ Native American ☐ Other: _____

Ethnicity:

☐ Hispanic
☐ Non-Hispanic

Sex:

☐ Male
☐ Female

Fingerprints: I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, Cathy Delaney Dated: 3-13-12

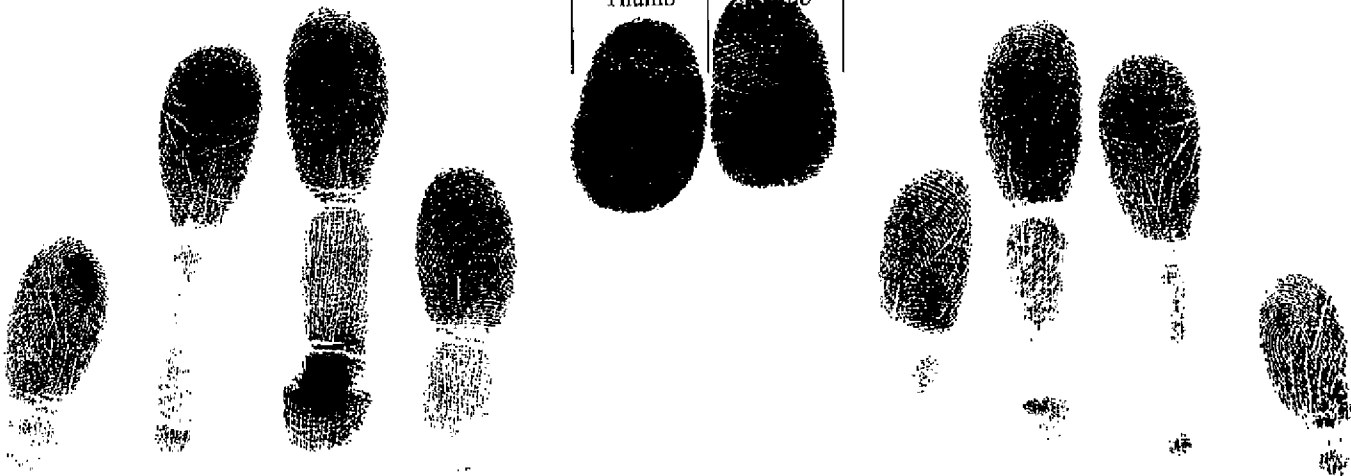
The defendant's signature: [Signature]

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR MASON COUNTY

STATE OF WASHINGTON,)	
)	
Plaintiff,)	NO. 11-1-00195-4
)	
vs.)	CONDITIONS OF
)	[] COMMUNITY PLACEMENT
NATHEN R. WRIGHT,)	[X] COMMUNITY CUSTODY
)	[] COMMUNITY SUPERVISION
Defendant.)	[] COMMUNITY PROBATION

Upon release from total confinement in the Department of Corrections, the defendant shall be on Community Placement / Custody / Supervision / Probation for the period specified in the Judgment and Sentence, upon the following conditions:

- ☒ The defendant shall report to and be available for contact with the assigned Community Corrections Officer as directed;
- ☒ The defendant shall reside at a location and under living arrangements that have been approved in advance by the CCO, and shall not change such arrangements/location without prior approval;
- ☒ The defendant shall consent to allow home visits by the DOC/CCO to monitor compliance with supervision. Home visits include access for purposes of visual inspection of all areas of the residence in which the defendant lives and/or has exclusive or joint control or access.
- ☒ The defendant shall remain within, or outside of, geographic boundaries specified by the CCO;
- ☒ The defendant shall work at a Department of Corrections-approved education, employment and/or community service program;
- ☒ The defendant shall not own, use, possess, transport, or receive firearms or ammunition;
- ☒ The defendant shall not possess or consume any mind or mood-altering substances, to

include the drug alcohol, or any controlled substances, except pursuant to lawfully issued prescriptions;

TAS ☒ The defendant shall not go into bars, taverns, lounges, or other places whose primary business is the sale of liquor;

☒ The defendant shall have a (chemical dependency) ^{while in confinement or} ~~(mental health)~~ evaluation within 30 days of release from custody, provide a copy of the evaluation to the CCO, successfully participate in and complete all recommended treatment, and sign all releases necessary to ensure that the CCO can consult with the treatment provider to monitor progress and compliance;


☒ The defendant shall, at his/her own expense, submit to urinalysis and/or breathalyzer testing at the request of the CCO or treatment provider to verify compliance;

☒ The defendant shall not associate with any known drug users or sellers, except in the context of a chemical dependency treatment program approved by the CCO;

☒ Defendant shall pay a community placement fee as determined by the Department of Corrections;

☒ A notice of payroll deduction may be issued or other income withholding action may be taken, without further notice to the offender, if a monthly court-ordered legal financial obligation payment is not paid when due and an amount equal to or greater than the amount payable for one month is owed;

☒ Legal financial obligation payments are to be made on a schedule established by the Court to begin as directed by the Court.

TAS ☒ Other: The defendant shall participate in the MRT ~~+/or Victim Awareness Education Program~~ or Getting it Right. 

☐ Other: The defendant shall participate in and successfully complete a certified Domestic Violence/Anger Management counseling program.

☐ Other: The defendant shall have no contact, either direct or indirect, with the victim, _____, or members of the victim's immediate family, including but not limited to contact in person, by mail, telephonically or through third parties. Any such contact may be reinitiated only upon the joint recommendation of the defendant's Domestic Violence counselor and PO/CCO and upon the written approval of this court.

☐ Other: The defendant shall enroll in and successfully complete a high school Equivalency Diploma Program.

- ☐ Other: The defendant shall obey all laws.
- ☐ Other: The defendant shall participate in mental health counseling or treatment at the direction of the CCO.
- ☒ Other: The defendant shall not operate a motor vehicle without a valid license to drive and proof of financial responsibility for the future.
- ☒ Other: The defendant shall not refuse to submit to a breath or blood test to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe that the defendant was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs.
- ☐ Other: The defendant may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device during the period of probationary supervision.
- ☐ Other:
- ☐ The defendant shall not possess, write or endorse checks except as to his/her own sufficiently funded checking account, his/her own payroll check or his/her own entitlement check.

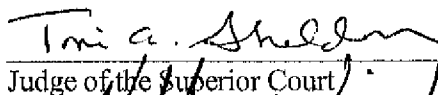
☐ Other: _____

DONE IN OPEN COURT THIS 13th DAY OF MARCH, 2012.

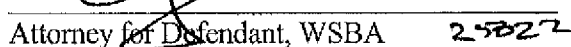


JASON S. RICHARDS WSBA 23644
Deputy Prosecutor

17506


 Judge of the Superior Court


 Defendant


 Attorney for Defendant, WSBA 25822

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF MASON

STATE OF WASHINGTON,)
Plaintiff,) **NO. 11-1-00195-4**
)
vs.) **WARRANT OF COMMITMENT**
NATHEN R. WRIGHT,) **(WC)**
)
Defendant.)

THE STATE OF WASHINGTON

TO: The Sheriff of Mason County.

The defendant has been convicted in the Superior Court of the State of Washington of the crime(s)
of:

COUNT I: VEHICULAR HOMICIDE

COUNT II: UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE

COUNT III: UNLAWFUL USE OF DRUG PARAPHERNALIA

and the Court has ordered that the defendant be punished by serving the determined sentence of:

☒ 90 Months **PRISON** on Count No. I

☒ 18 Months **PRISON** on Count No. II

☒ 90 (Days) (~~Months~~) ~~JAIL~~ **PRISON** on Count No. III

☐ **PARTIAL CONFINEMENT.** Defendant may serve the sentence, if eligible and approved,
in partial confinement in the following programs, subject to the following conditions:

☐ work crew ☐ home detention
☐ work release ☐ day reporting

☐ _____ (Days) (Months) of partial confinement in the County **JAIL**

- ☐ _____ (Days) (Months) of total confinement in the county **JAIL**
☐ _____ Days confinement converted to _____ hours community service

[XX] DEFENDANT shall receive credit for time served prior to this date:

[XX] To be calculated by the staff of the Mason County Jail

☐ In the amount of _____ Days.

☐ YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

[X] YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

[X] YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence

☐ The DEFENDANT is committed for up to (30) days evaluation at the Western State Hospital or Eastern State Hospital to determine amenability to sexual offender treatment.

☐ YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections pending delivery to the proper officers of the Secretary of the Department of the Department of Social and Health Services.

☐ YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as ordered in the Judgment and Sentence.

Dated this 13th Day of March, 2012.

TONI A. SHELDON

Judge of the Superior Court

PAT SWARTOS

Clerk of the Superior Court

By: Cathy Gallagher
Deputy Clerk

cc: Prosecuting Attorney
Defendant's Lawyer
Defendant
Jail
Institutions (3)

MASON COUNTY PROSECUTOR

December 15, 2014 - 5:42 PM

Transmittal Letter

Document Uploaded: 0-prp2-464969-Response.pdf

Case Name: In re Nathen Wright

Court of Appeals Case Number: 46496-9

Is this a Personal Restraint Petition? ☒ Yes ☐ No

The document being Filed is:

Designation of Clerk's Papers

Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

Brief: _____

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

☒ Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Tim J Higgs - Email: timh@co.mason.wa.us

A copy of this document has been emailed to the following addresses:

mitch@mitchharrisonlaw.com